

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
Case no. 1:23CV00878-TDS-JEP

DEMOCRACY NORTH CAROLINA; NORTH)
CAROLINA BLACK ALLIANCE; LEAGUE)
OF WOMEN VOTERS OF NORTH)
CAROLINA,)

Plaintiffs,)

vs.)

ALAN HIRSCH, in his official)
capacity as CHAIR OF THE STATE)
BOARD OF ELECTIONS; JEFF CARMON)
III, in his official capacity)
as SECRETARY OF THE STATE BOARD)
OF ELECTIONS; STACY EGGERS IV,)
in his official capacity as)
MEMBER OF THE STATE BOARD OF)
ELECTIONS; KEVIN LEWIS, in his)
official capacity as MEMBER OF)
THE STATE BOARD OF ELECTIONS;)
SIOBHAN O'DUFFY MILLEN, in her)
official capacity as MEMBER OF)
THE STATE BOARD OF ELECTIONS;)
KAREN BRINSON BELL, in her)
official capacity as EXECUTIVE)
DIRECTOR OF THE STATE BOARD OF)
ELECTIONS; NORTH CAROLINA STATE)
BOARD OF ELECTIONS,)

Defendants.)

30(b)(6) DEPOSITION OF THE
STATE BOARD OF ELECTIONS by
PAUL COX

NELSON MULLINS RILEY & SCARBOROUGH
301 HILLSBOROUGH STREET
RALEIGH, NC 27603

10:03 A.M.
MONDAY, FEBRUARY 24, 2025

By: Denise Myers Byrd, CSR 8340, RPR

1 Q. Does a new voter get a confirmation mailer after
2 the first mailer bounces back with a forwarding
3 address?

4 A. No, I don't think so. I think -- but ask
5 Mr. Holland to see exactly what situation would
6 prompt that. I have a hunch, but I'd rather him
7 answer it.

8 Q. Sure. Yeah, it's complicated which is why I
9 have so many questions about it.

10 My last question, and it's fine if it's
11 the same answer, is there any circumstance in
12 which a same-day registrant operating in the
13 Senate Bill 747 one-mailer world would receive a
14 confirmation mailer pursuant to that same-day
15 registration, so separate and apart from a later
16 event?

17 A. I can't think of a reason, but I'll refer you
18 back to -- I think all this, I want Mr. Holland
19 to be able to get through that because there
20 could be complicated situations that are, you
21 know, very specific to a small sliver of voters
22 that could trigger this. I'm just not sure.

23 Q. Okay.

24 ATTORNEY SHENTON: I'm going to mark
25 Exhibit 6 which is a document that's been

1 produced by the state board. It's Bates-stamped
2 NCSBE 3097, and I'm going to screen share this
3 one as well.

4 (WHEREUPON, Exhibit 6 was marked for
5 identification.)

6 BY ATTORNEY SHENTON:

7 Q. You see my screen?

8 A. Yes.

9 Q. Mr. Cox, do you recognize this document?

10 A. Yes.

11 Q. What is it?

12 A. This is a document that we produced in discovery
13 in this litigation, and it is data from
14 the -- well, I don't know how many elections. I
15 know it covers the November general election
16 from 2024. It may cover others beyond that, but
17 I know it covers the November 2024 election, and
18 it's data showing the different statuses applied
19 to same-day registrants in the election who
20 failed mail verification.

21 Q. And I think it does include the primary, if you
22 can see my screen.

23 A. Yes, I do see that.

24 Q. But I believe it's just those two, the 2024
25 primary and the 2024 general.

1 A. That's right.

2 Q. You said this is a document that shows the
3 statuses of every voter who failed mail
4 verification?

5 A. And same-day registered in those elections.

6 Q. Correct. Sorry. I should have said both parts.

7 And then what are the different
8 statuses as you understand them that could apply
9 to voters in this snapshot?

10 A. Well, you'll notice there's different columns in
11 the spreadsheet, and those columns refer to the
12 fields each of which has various statuses that
13 would apply to same-day registrants in various
14 stages of the registration process.

15 Q. Okay. And scrolling a little bit to the right
16 here. Looking at rows G and I, row G is labeled
17 SDR_undeliverable_cure_status, and then -- or
18 I'm sorry, I said row. I should say column G
19 and column I. And then column I is
20 ballot_status.

21 What's the difference between these two
22 columns?

23 A. So the undeliverable cure status refers to
24 whether a same-day registrant who failed mail
25 verification has successfully cured that mail

1 verification failure pursuant to the numbered
2 memo that we issued after the court decision.

3 And the ballot status is related, but
4 it refers to what should happen to that voter's
5 ballot and why based upon the cure status.

6 Q. Okay. So let's start with the different
7 possibilities under cure. You can see I've
8 opened up the list of possibilities under
9 column G, and I see five different statuses.

10 Do you see that?

11 A. Yes.

12 Q. Just taking them one at a time, what does denied
13 default time limit mean?

14 A. That refers to whether a voter who would need to
15 cure a verification failure has actually cured
16 by the time limit for them to cure, the time
17 limit being the canvass date.

18 Q. Okay. And how does that vary from the next one
19 which is denied failed cure?

20 A. I think -- I think that is a manual status that
21 would -- that could be applied by a county board
22 of elections user, whereas the default time
23 limit would be an automatically applied status
24 once you gets to the canvass.

25 But, you know, as to -- as to the

1 business rules as to, you know, how -- whether
2 one would override another, I'm not sure about
3 that. Mr. Holland might know.

4 Q. But in both of those circumstances, the voter's
5 registration was denied and they did not
6 successfully cure that; is that correct?

7 A. Correct.

8 Q. What about that third status code, started cure
9 process, what does that mean?

10 A. That is a status code where -- that the county
11 user should enter into that -- this is all in
12 this new module that we created after the court
13 decision in early 2024. And that is the status
14 that the county board staff person would enter
15 when an undeliverable mail verification comes
16 back and it's prior to the second business day
17 before the canvass and the county board is going
18 to send out a cure notice and inform the voter
19 by other means, if they have other contact
20 means, that they need to cure that address
21 verification failure. And so that is the status
22 indicating that they've started that process to
23 ask the voter to cure it.

24 Q. Is there a functional difference between sitting
25 here today with this snapshot of the voter file

1 after the election has been canvassed between
2 denied failed cure and someone who started the
3 cure process but hasn't been notated to finish
4 that process?

5 A. I don't believe so.

6 Q. Both of those voters would have not had their
7 ballot accepted because they had not
8 successfully cured their same-day registration,
9 correct?

10 A. As the process was intended, yes.

11 You could have -- because this was a
12 manual process that we had to create very
13 quickly, it doesn't have sort of the strict
14 business rules that we would typically code into
15 the system, like into SEIMS, so it didn't have
16 quite as many restrictions on what a county user
17 could do or couldn't do based upon various
18 scenarios.

19 So it's conceivable that you could have
20 county users entering data that -- entering the
21 start cure process, for example, after the
22 deadline was to start the cure, just as an
23 example. I don't know if that actually
24 happened. I'm just saying it's possible that
25 you could have some situations where it doesn't

1 correspond exactly as the way it was intended.

2 Q. When you say business rules, what do you mean by
3 that?

4 A. It's a term of art we use when referring to our
5 software as it was created. When the
6 state board develops software in the State
7 Elections Information Management System, we go
8 through a complicated process of determining how
9 that software is supposed to operate, and so
10 part of that is determining what the business
11 rules should be for how that process flow works.

12 An example of a business rule would be
13 if -- you know, we coded into the system that
14 anyone who is pending a cure in this scenario
15 where they same-day register and they had a mail
16 verification that came back before the -- two
17 days before canvass, then after the date of
18 canvass you could have a business rule that says
19 that registration automatically gets a status
20 code of, you know, default time limit. So that
21 would be an example of a business rule.

22 Q. Got it. So it's a way to sort of channel the
23 flow through a particular module or system for
24 state board and county board employees? That's
25 kind of the function of the business rules?

1 A. Yeah, that could be a business rule. I mean,
2 business rules could be -- I would state it more
3 generally that business rules in our software
4 are how the data and the software are supposed
5 to operate in various circumstances.

6 Q. Okay. And then moving to that fourth status
7 code there, started new mailing, what does that
8 mean here?

9 A. That would be a situation where an address
10 verification mailing is returned as
11 undeliverable and the county board staff notices
12 that there is a problem with the address that
13 was entered into that registration record.

14 It could have been, you know, an
15 interposed digit or letters, or it could have
16 been a missing apartment number, or it could
17 have been that, you know, the registrant didn't
18 exactly know how to put their address down
19 exactly the way that it could be delivered but
20 the county user has a lot of experience -- so,
21 for example, perhaps it's a college campus and
22 they put down their residence hall, but the way
23 that mail is delivered at that university, you
24 don't address it to the residence hall and suite
25 number or room number, instead, there's a

1 different address convention for that residence
2 hall in that campus. And county board staff
3 often will have that knowledge about how that
4 should be entered into the system so that mail
5 gets delivered.

6 So that's another example of where the
7 staff would get that undeliverable mailing back
8 and say, oh, this was entered in a way that made
9 sense to the user but actually it's not the way
10 it gets differed to the postal service, so let's
11 change this to the right way and issue a new
12 mailing and we'll treat that as their first
13 verification mailing.

14 And that was part of the numbered memo
15 that was issued after the court decision,
16 essentially two different -- two different paths
17 to use after you get an undeliverable mailing
18 from a same-day registrant. You have to first
19 look and see if there's any address problem, and
20 this would be the result if you identify an
21 address problem.

22 Q. So start a new mailing is the code that would be
23 used if there was an error or, like you said,
24 address stated in a way that makes sense but not
25 how the postal service delivers mail, all of the

1 voters who are assigned this new mailing code
2 will be voters for whom there was such a problem
3 or typo identified?

4 A. Yes.

5 Q. And under that started new mailing system, would
6 that then reset the clock, so to speak, on that
7 person's one mailer ahead of canvass?

8 A. Yes.

9 Q. So if that new mailing did not return
10 undeliverable by the close of business day
11 before canvass -- or two business days before
12 canvass, then that voter's ballot would not be
13 removed from the count?

14 A. Correct.

15 Q. And then I think I know what this last one
16 means, verified SDR cure. What is that?

17 A. That is the code that would be entered by the
18 county board staff if the voter who failed mail
19 verification after same-day registering was
20 notified that they needed to cure that
21 verification failure and they did cure it by
22 providing a copy of a HAVA document or perhaps
23 showing up at the county canvass meeting to
24 attest to their address.

25 Q. And then switching from column G to column I,

1 over to ballot status, you'll see there's four
2 different ballot statuses possible there.

3 Taking them one at a time, what does
4 the accepted ballot status mean?

5 A. It means the ballot can remain in the count.

6 Q. Okay. And cancelled?

7 A. Cancelled -- I think cancelled is generally
8 intended for situations where a voter same-day
9 registered at early voting, had the address
10 verification failure and then voted by a
11 different means. And so when we have two
12 different voter histories for the same voter,
13 you would need to cancel one of them, obviously,
14 and so that is a scenario I think where
15 cancelled is intended to apply to these.

16 Now, there are -- I have a
17 feeling -- well, Mr. Holland and I reviewed the
18 data beforehand, and we have a good reason to
19 believe that some counties might have used the
20 cancelled status when the cure was not
21 successful, so there may be some overlap between
22 cancelled and SDR verification -- SDR failed
23 verification which is another status under this
24 field.

25 Q. Got it. What does the not voted status mean?

1 A. That I think is intended to refer to situations
2 where a person same-day registers but does not
3 vote which is possible and it happens
4 occasionally, but because it's a status that a
5 county user could, by their own volition, input,
6 we can't be a hundred percent certain that is
7 the scenario that it applied to every time that
8 it is selected.

9 Q. It could be the case that counties were
10 miscoding voters who had failed same-day
11 registration mail verification as not voted or
12 cancelled?

13 A. We have good reason to believe that, yes,
14 counties -- I think one county in particular, we
15 identified Mecklenburg County as having used the
16 cancelled status for a voter who failed the cure
17 process.

18 I'm not sure that we have any reason to
19 believe that the not voted was used in that
20 scenario, but it's possible.

21 Q. And then SDR failed verification, could you
22 define that term for me as well?

23 A. Yes. So that is when the voter is offered the
24 opportunity to cure the failed verification
25 after same-day registration but does not cure

1 within the required time period.

2 Q. And would it be fair to say -- fair to conclude
3 from this document that the only voters who were
4 successfully able to cure their ballots or had
5 their ballots counted on this spreadsheet would
6 have accepted listed as their ballot status?

7 A. Can you ask that again. I heard an "and" and an
8 "or," and I want to make sure I have that
9 question right.

10 Q. For the voters who are on this spreadsheet who
11 are same-day registrants who failed mail
12 verification, is it fair to conclude that the
13 only such voters who succeeded in having their
14 ballot counted would have a ballot status of
15 accepted?

16 A. As this policy and as this module was intended,
17 yes, but that is not necessarily going to be the
18 case if -- because this is a process we had to
19 create that was a manual process and because the
20 status -- you're not going to remove a ballot
21 just by pushing a button in the database, so if
22 someone applied an SDR fail verification ballot
23 status in the database, there is a separate step
24 that has to take place physically to take their
25 ballot out of the count. They have to go find